

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|  |   |                      |
|--|---|----------------------|
| LABORERS' PENSION FUND and             | ) |                      |
| LABORERS' WELFARE FUND OF THE          | ) |                      |
| HEALTH AND WELFARE DEPARTMENT          | ) |                      |
| OF THE CONSTRUCTION AND GENERAL        | ) |                      |
| LABORERS' DISTRICT COUNCIL OF          | ) |                      |
| CHICAGO AND VICINITY, and JAMES S.     | ) |                      |
| JORGENSEN, Administrator of the Funds, | ) |                      |
|  | ) | Case No. 07 C 6635   |
| Plaintiffs,                            | ) |                      |
|  | ) | Magistrate Judge Cox |
| v.                                     | ) |                      |
|  | ) |                      |
| APEX EXCAVATING, INC.,                 | ) |                      |
|  | ) |                      |
| Defendant.                             | ) |                      |

**STIPULATION OF DISMISSAL**

Plaintiffs, LABORERS' PENSION FUND, and LABORERS' WELFARE FUND OF THE HEALTH AND WELFARE DEPARTMENT OF THE CONSTRUCTION AND GENERAL LABORERS' DISTRICT COUNCIL OF CHICAGO AND VICINITY, and JAMES S. JORGENSEN, Administrator of the Funds, and Defendant, APEX EXCAVATING, INC., by their attorneys, pursuant to Rule 41(a)(1)(ii), Federal Rules of Civil Procedure, having resolved all outstanding issues in this litigation, hereby stipulate and agree that effective with filing of this Stipulation this matter may be dismissed without prejudice with leave to reinstate on or before April 15, 2009, after which time the dismissal shall be with prejudice each party to bear its own costs and fees.

Dated: April 4, 2008

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